

REMARKS

In response to the Office Action dated October 19, 2004, the specification and claims 1, 15, 27 and 39 have been amended. Claims 1-49 are in the case.

Reexamination and reconsideration of the application, as amended, are requested.

The Office Action objected to the drawings because they allegedly included reference numerals 206 and 300, but these reference numerals were not mentioned in the description.

In response, the Applicant has amended the specification as suggested by the Examiner to include a description of reference numerals 206 and 300 in the specification.

The Office Action rejected claims 1, 2, 6-8, 11-16, 21-28, 31-34, 37-40 and 45-49 under 35 U.S.C. 103(a) as allegedly being unpatentable over Dodrill et al. (U.S. Patent No. 6,766,298) in view of Mogul et al. (U.S. Patent No. 6,243,761). The Office Action rejected claims 3-5, 18-20, 29-30 and 42-44 under 35 U.S.C. 103(a) as allegedly being unpatentable over Dodrill et al. in view of Mogul et al. and further in view of Yalcinalp. The Office Action rejected claims 9-10, 17, 35-36 and 41 under 35 U.S.C. 103(a) as allegedly being unpatentable over Dodrill et al. in view of Mogul et al. and further in view of Myerson.

The Applicant respectfully traverses this rejection based on the amendments to the claims and the arguments below.

Specifically, Dodrill et al. in combination with Mogul et al. clearly do not disclose the Applicant's claimed dynamically changing the application during server operation without shutting the server down or recompiling the server by implementing the file in the tag-based language format via a control panel that is coupled to the server. Although the Examiner summarily stated that Mogul et al. discloses the elements of claim 1 (see paragraph 3 of the Office Action), this statement by the Examiner is incorrect. First, the Examiner did not provide any detailed reasoning or explicit language from the Mogul et al. reference that specifically supports his statement, but instead, the Examiner copied the language of claim 1 and summarily stated that it was disclosed in Mogul et al.

Second, the Examiner cited to a section in Mogul et al. (Abstract, col. 4, lines 25-27, lines 64-67 and col. 5, lines 47-57) that does not support the statement made by the Examiner. For example, instead, Mogul et al. explicitly states that "[U]sing the measured effective bandwidth and/or latency, the content of the Web page is

dynamically adjusted by the server computer while sending the Web page to the client.” Even though Mogul et al. dynamically adjusts the content of the Web page, this is very **different** from the Applicant’s claimed dynamically change the application during server operation without shutting the server down or recompiling the server **by implementing the file in the tag-based language format**, which is not disclosed in the combined references. The Examiner attempted to combine Mogul et al. with Dodrill et al, because Mogul et al. “dynamically” does some function, which is very different from the Applicant’s claimed invention, as argued above. Therefore, Mogul et al. cannot be properly combined with Dodrill et al. to render the claims obvious. (*MPEP 2143*).

Further, even though the combined references do not contain all of the features of the claims, they should not even be considered together. This is because when the Mogul et al. reference is combined with the Dodrill et al. reference, the main function of of Dorill et al. is destroyed, which is a clear **teaching away** from the Applicant’s claimed invention. Namely, in Dodrill et al., any changes to the information in the application for operating a server would require server shut down first before the change, and then restarting and recompilation of the application (see Summary, col. 7, lines 4-55, and FIGS. 3-4, 8-10 of Dodrill et al.). Hence, unlike the Applicant’s claimed invention, any dynamic changes in Dodrill et al. to the application during server operation without shutting the server down or recompiling the server would cause the server or application in Dodrill et al. to crash. Consequently, the combination of Mogul et al. with Dodrill et al. **teaches away** from the Applicant’s claimed invention, and therefore, the combination **cannot** render the claims obvious. This **teaching away** and **failure** of the cited references to disclose, suggest or provide motivation for the Applicant’s claimed invention indicates a lack of a prima facie case of obviousness (*MPEP 2143*).

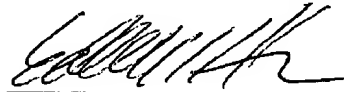
With regard to the dependent claims, since they depend from the above-argued respective independent claims, they are therefore patentable on the same basis. (*MPEP* § 2143.03).

In view of the arguments and amendments set forth above, the Applicant respectfully submits that the claims of the subject application are in immediate condition for allowance. Thus, it is respectfully requested that all of the claims be allowed based on the amendments and arguments. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this

application to issue. Additionally, in an effort to further the prosecution of the subject application, the Applicants kindly request the Examiner to telephone the Applicants' attorney at (818) 885-1575. Please note that all correspondence should continue to be directed to:

Hewlett Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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Edmond A. DeFrank
Reg. No. 37,814
Attorney for Applicants
(818) 885-1575 TEL
(818) 885-5750 FAX